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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-first session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 56th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 December 1999, at 10.55 a.m.

Chairperson: Mrs. BONOAN-DANDAN

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* The summary record of the first part (closed) of the meeting appears as document E/C.12/1999/SR.56.

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GE.99-46127 (E)

The public part of the meeting was called to order at 10.55 a.m.

REPORT OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS TO THE ECONOMIC AND SOCIAL COUNCIL (agenda item 9) (E/C.12/1999/CRP.1 and Add.1)

1. Mr. HUNT (Rapporteur) expressed his thanks to the members of the secretariat for their assistance during his first experience as Rapporteur. In accordance with the Committee's usual procedure, stylistic amendments would be dealt with subsequently by the Chairperson, the secretariat and himself. Meanwhile, he would introduce each chapter individually for the Committee's comments and adoption.

Chapter I. Draft decisions recommended for adoption by the Economic and Social Council

2. Mr. HUNT (Rapporteur) said chapter I was self-explanatory. He had no comment to make on it or on the related draft decision concerning an additional session of the Committee.

3. Chapter I was adopted.

Chapter II. Organizational and other matters

4. Mr. HUNT (Rapporteur) said that, in paragraph 5, WTO, IMF and FAO should be included among the organizations represented at the current session. In paragraph 6, the International League for the Rights and Liberation of Peoples should appear among the organizations represented by an observer at that session. He noted, in connection with paragraph 18, that Mr. Ceausu had agreed to serve as the rapporteur on the Congo. The members of the pre-sessional working group for the twenty-third session, remaining to be listed in paragraph 20, were Mr. Ceville, Mr. Kouznetsov, Mrs. Jiménez Butragueño, Mr. Grissa and Mrs. Bonoan-Dandan.

5. Chapter II, as amended, was adopted.

Chapter III. Overview of the present working methods of the Committee

6. Mr. HUNT (Rapporteur) drew attention to section C of chapter III, "Procedures in relation to follow-up action". The text of paragraph 38 did not precisely reflect the decisions in relation to follow-up action that the Committee had adopted a few days earlier. He therefore proposed that the heading and paragraph 38 should be amended to read:

"C. Follow-up of recommendations made by the Committee in its Concluding Observations

"38. The Committee decided, at its 53rd meeting held on 1 December 1999, that:

(a) In all Concluding Observations, the Committee will request the State party to inform the Committee, in its next periodic report, about steps taken to implement recommendations in the Concluding Observations;

(b) Where appropriate, the Committee may, in its Concluding Observations, make a specific request to a State party to provide more information or statistical data prior to the date that the next periodic report is due to be submitted;

(c) Where appropriate, the Committee may, in its Concluding Observations, ask the State party to respond to one or more specific issues identified in the Concluding Observations, prior to the date that the next report is due to be submitted."

7. Mr. GRISSA proposed that the word "pressing" should be inserted before "specific issues" in subparagraph (c).

8. The CHAIRPERSON said she took it that the Committee wished to delete the words "one or more" from the text of subparagraph (c), as amended by Mr. Grissa, and to adopt the rest of the Rapporteur's proposal.

9. It was so decided.

10. Mr. HUNT (Rapporteur) said that, in that case, a new text would be required to link the new paragraph 38 with what followed. He therefore proposed that that part of the text of paragraph 38 starting with the words "In situations" up to "pre-sessional working group" in subparagraph (c) should be deleted. A new sentence should be added: "Any information provided in accordance with subparagraphs (b) and (c) will be considered by the next meeting of the Committee's pre-sessional working group." Subparagraph (c) would then continue from "In general, the working group will recommend one of the following responses to the Committee ..." to the end of the original text, including the four subparagraphs (i)-(iv). A number of changes would then be required in subparagraph (d) of paragraph 38. He proposed that it should read: "If the information requested in accordance with (b) and (c) is not provided by the specified date, or if it is patently unsatisfactory, the Chairperson, in consultation with the members of the Bureau, is authorized to follow up the matter with the State party."

11. The CHAIRPERSON said she took it that the Committee wished to adopt all the amendments to paragraph 38 suggested by the Rapporteur.

12. It was so decided.

13. Mr. TEXIER proposed that the phrase "but not longer" at the end of paragraph 44 (d) should be deleted.

14. It was so decided.

15. Mr. HUNT (Rapporteur) said that section G needed to be amended in order to refer to the guidelines adopted by the Committee at the current session. The guidelines could either be treated under the heading "General Comments" or they could be included in chapter VI, section B, "Decisions adopted and matters discussed at the twenty-first session". He thought that it would be easier for the reader if the guidelines were included under the heading "General Comments".

16. Mr. RIEDEL endorsed the Rapporteur's suggestion.

17. The CHAIRPERSON said she took it the Committee agreed that the guidelines for drafting general comments should be briefly outlined in the body of the report, the full text being given as an annex.

18. It was so decided.

19. Chapter III, as amended, was adopted.

Chapter IV. Submission of reports by States parties under articles 16 and 17 of the Covenant

20. Chapter IV was adopted.

Chapter V. Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant

21. Chapter V was adopted.

Chapter VI. Review of methods of work of the Committee

22. Mr. HUNT said that section A, "Decisions adopted and matters discussed by the Committee at its twentieth session", included a number of paragraphs on the workshop on indicators, benchmarks and the right to education. He suggested that the Committee's proposal in that connection should not be given in its entirety but be outlined briefly, the full text being given in an annex.

23. It was so decided.

24. Mr. HUNT (Rapporteur) reminded the Committee that it had been agreed to bring paragraphs 1 and 2 of section B (E/C.12/1999/CRP.1/Add.1) forward to section G of chapter III, entitled "General Comments". He had no changes to propose to the subsequent paragraphs, until the subsection on the draft general comment on intellectual property rights (paras. 13-16).

25. Mr. RIEDEL said that, as it stood, paragraph 14 gave the impression that the Committee's next general comment would be on intellectual property rights. He believed that there were more important topics that should be dealt with first. The paragraph should perhaps be toned down.

26. The CHAIRPERSON said that paragraph 14 seemed to her to leave the matter open.

27. Mr. RIEDEL, supported by Mrs. JIMÉNEZ BUTRAGUEÑO, felt that it should be made clear that intellectual property rights would not have precedence. He proposed that the phrase "through its General Comments" should be replaced by "through one of its General Comments".

28. Mr. HUNT (Rapporteur) said that paragraph 15 referred to an invitation to an expert to prepare a study on the topic for the Committee's next session. That surely made it clear that there was no expectation that a general comment on intellectual property rights would be available forthwith.

29. The CHAIRPERSON said she took it that the Committee wished to retain paragraphs 13 to 16 as they stood.

30. It was so decided.

31. Mr. GRISSA drew attention to the subsection on "Support for the Committee" (paras. 17 and 18). It was very important that members of the Committee should receive any existing documentation on the economic and social problems of the countries with which it was concerned, such as reports by UNDP and UNICEF, well in advance of the session.

32. Mr. TIKHONOV (Secretary of the Committee) said that immediately after the meeting of the United Nations High Commissioner for Human Rights with the Committee, it had been decided that a letter would be prepared by her Office addressed to all United Nations agencies and programmes which published annual reports, requesting that those reports should be made available to the Committee through its secretariat. Any material received would be sent out promptly to Committee members. He noted that similar letters had been sent on many previous occasions without any follow-up by the specialized agencies to the request. UNDP, however, had undertaken to submit its own human development report and other related documents to the Committee on a regular basis for use in the consideration of country reports.

33. The CHAIRPERSON said that the information provided by the Secretary seemed to answer Mr. Grissa's concern.

34. Before turning to the remaining subsection of chapter VI on methods of work (paras. 19-22), she would like to hear the Committee's comments on Mr. Alston's report on the treaty body system. It had been decided on the first day of the session that Mr. Sadi should be asked to prepare a study of that report on the Committee's behalf. He had done so, with excellent results, and she invited members to comment on the study.

35. Mr. RIEDEL thanked Mr. Sadi for having undertaken at such short notice to review a very lengthy report containing a number of highly controversial recommendations. That initial study had demonstrated the importance of the issue, which should not be allowed to rest on Mr. Sadi's shoulders alone. His study constituted an excellent basis on which a small working group could be appointed to examine the report, which referred to fundamental changes that the Committee would need to consider very carefully. That working group could be asked to prepare a study of the Alston report that could be discussed in detail at the next session, thus giving the Committee an opportunity to develop a consensus on its many controversial and far-reaching suggestions. The Chairperson should perhaps send a letter to the High Commissioner for Human Rights saying that the Committee was preparing to study the report, which raised a number of difficult issues.

36. The CHAIRPERSON endorsed Mr. Riedel's suggestion for the establishment of a working group. However, in order to facilitate the task of the working group and to do justice to Mr. Sadi's efforts, she invited members to provide further input for the working group, either by making comments now or submitting written comments before the next session. One meeting at the next session would be set aside for the discussion of the very important issues raised in Mr. Alston's report. She hoped that a report setting forth the Committee's views on it would be ready in time for the next meeting of chairpersons of the human rights treaty bodies, at which she would urge her counterparts to prepare reports along similar lines.

37. Mr. ANTANOVICH commended Mr. Sadi for his very thorough appraisal of Mr. Alston's report. He stressed that the working group should not repeat the exercise carried out by Mr. Sadi, but should instead examine the background to, and implications for the Committee of, the many important issues raised in the report and take a firm stance on some of the more controversial proposals, including the establishment of an international human rights court. He doubted, however, whether one half day would allow the Committee sufficient time to give such matters due consideration.

38. The CHAIRPERSON suggested that members could hold informal discussions on the matter as and when appropriate.

39. Mr. TEXIER endorsed Mr. Reidel's remarks: some of the proposals made in Mr. Alston's report certainly required careful consideration. He suggested that the working group should meet at the start of the next session and hold informal consultations as necessary to prepare a report on the basis of Mr. Sadi's very useful study, for subsequent discussion by the Committee as a whole. He stated his readiness to participate in the working group.

40. The CHAIRPERSON invited other members interested in taking part in the working group to come forward so that they could hold their first meeting on the opening day of the next session.

41. Mr. SADI said that the intent of his paper had been above all to facilitate discussion; in his view, the very serious issues raised in Mr. Alston's report warranted thorough and collective consideration. He suggested that, in order to prepare the ground for the working group, the matter might be followed up at the next meeting of the pre-sessional working group. Frequently the agenda at the meetings of the pre-sessional working group was completed well ahead of schedule. Perhaps therefore the agenda for such meetings could be broadened so that any additional time available could be usefully employed by examining important matters such as Mr. Alston's report. In so doing, the proposed working group would have some further input before starting its work at the opening of the next session.

42. Mrs. JIMÉNEZ BUTRAGUEÑO, after thanking Mr. Sadi for his study, said she welcomed the establishment of a working group. Although she would be unable to participate in it, given that her mandate expired in the year 2000, she would certainly take an interest and support its efforts in any way she could.

43. The CHAIRPERSON said that if there was no objection, she would take it that Mr. Sadi's suggestion was acceptable to the Committee.

44. It was so decided.

45. The CHAIRPERSON invited the Committee to consider the subsection entitled "methods of work" of chapter VI of the Committee's draft report.

46. Mr. HUNT (Rapporteur) pointed out that that subsection (paras. 19-22) reflected input he had received as Rapporteur on proposed new working methods; he did not necessarily endorse the proposals contained therein.

47. The CHAIRPERSON said that although she had provided most of the input, principally in order to facilitate discussion, it did not reflect her personal views alone. Some of the proposals were new, while others drew on past practices, particularly those which, to her recollection, members had noted as being particularly effective. Since there was general agreement that some improvement of current working methods was indeed necessary, it was her hope that eventually some of those proposals might be put into effect.

48. Mr. RIEDEL, referring to the proposals made in paragraph 20, considered that a member of the Bureau should be responsible for arranging which Committee member should question the delegation on a given issue, noting that the informal way that had been done in the past had proved successful. It was essential that the Country Rapporteur should not be distracted in any way from the dialogue with the delegation during the meeting.

49. The CHAIRPERSON said the reason for proposing the Country Rapporteur as the person for designating members to address certain issues was that he or she should be more familiar with the contents of the State party's report and thus better placed to identify key issues and the members who had specialized knowledge of them. It was intended that an informal meeting should be held for that purpose before the dialogue with the State party; perhaps Mr. Riedel had misunderstood that point.

50. Mr. RIEDEL said that, as he understood it, there were two different tasks involved. He endorsed the idea of an informal meeting in which the Country Rapporteur would brief interested members on the State party's report. However, who would be responsible for deciding which member would speak on the various issues concerned?

51. Mr. TEXIER recalled the system that had worked fairly well in the past of holding a short informal meeting prior to the dialogue with the State party. At such meetings it was essential, particularly where the periodic reports were concerned, to decide first and foremost which issues were of primary importance and should therefore be allotted sufficient time during the dialogue. Following that, the question of which member should address which issue could be arranged. Even if such matters were not set down in writing, they must be discussed. It was a crucial stage in the Committee's procedure and would certainly make for greater efficiency.

52. He could not endorse the proposal made in paragraph 22, namely to strive to complete the discussion with States parties in two rather than three meetings, particularly in view of the

Committee's experience during the current session, when three full meetings had been barely sufficient to deal properly with the reports. Perhaps if the Committee organized its work better, it might on occasion be a feasible option, but it should certainly not be a hard and fast rule.

53. Mr. GRISSA said he could not endorse any proposal that effectively restricted the freedom of members to speak when they saw fit. He endorsed Mr. Texier's remarks regarding the proposal made in paragraph 22. Even with three full meetings, there was often not sufficient time left to deal properly with the last few articles of the Covenant.

54. The CHAIRPERSON pointed out that the intent of the proposals was not to prevent members from addressing the delegation as and when they saw fit, but rather to increase the Committee's efficiency by avoiding repetition by members and ensuring that the main subjects of concern regarding a State party were duly addressed.

55. Mr. ANTANOVICH said he was not satisfied with paragraph 20 (b), (c) and (d) as the text stood. He expressed concern about the idea of a Country Rapporteur effectively imposing his views on a report on other Committee members prior to the dialogue with the State party. That was not in keeping with the mandate of a Committee composed of independent experts. Moreover, it was difficult to decide in advance which questions should be raised and by whom; as the dialogue evolved, other related matters the Committee had perhaps not taken into account would come to the fore and need to be followed up. He stressed above all the need for the Committee to remain flexible and avoid complicating its working methods any further. He had no objection to the proposals set out in paragraph 20 (e), (f) and (g).

56. Mr. MARCHÁN ROMERO strongly supported Mr. Antanovich's remarks. He had no doubt that the proposals were well intentioned but, as currently formulated, they seemed to give far too much power to the Country Rapporteur. It was the responsibility of the Bureau, and not the Country Rapporteur, to convene informal meetings, designate individual members and establish lists of speakers. He suggested that the text of subparagraphs (b), (c) and (d) should be redrafted.

57. Mrs. JIMÉNEZ BUTRAGUEÑO agreed that the proposals contained in the three subparagraphs in question placed too much authority in the hands of the Country Rapporteur. When she had been Country Rapporteur, she had tried to brief participants at the pre-sessional working group meeting on the main concerns about, and recent developments in, the State party concerned. Instead of designating members to address certain issues, it might be preferable to wait for them to volunteer. Most members had subjects in which they were particularly interested or had specialized knowledge. While she had no objection to the basic intent of the proposals - to improve the Committee's working methods, she certainly opposed the way they had been formulated. What was needed was a more flexible and cooperative approach, with the emphasis on the Committee assisting the Country Rapporteur - not the reverse.

58. Mr. GRISSA reiterated his objection to subparagraphs (b), (c) and (d). If Country Rapporteurs designated principal speakers and members, who reserved their right to speak when they so wished, the proceedings would be even more complicated than at present. The Committee had a collective responsibility to consider the reports of States parties and that responsibility should not be shifted to one member alone.

59. Mr. CEVILLE said that, while it was true that members were entitled to state their views, they were also duty bound to avoid unnecessary repetition. It was important to strike a balance between the two. He endorsed the basic intent of the proposals, namely, to improve the Committee's working methods through better preparation and greater organization. However, that was not the responsibility of the Country Rapporteur alone, but the Committee as a whole. During informal meetings, the Chairperson or other Bureau members should try to find out which members wanted to speak on a given topic. If more than one member wished to address the same issue, then the members concerned should agree among themselves which aspects of the issue they would raise. He was confident that with careful consideration the proposals could be redrafted to meet with the Committee's general approval.

60. The CHAIRPERSON agreed that the subparagraphs in question as currently worded were somewhat misleading and needed to be redrafted. She explained that the important role of the Country Rapporteur, particularly during informal meetings, had been emphasized mainly because it was presumed that he would have a better grasp of the main problems in a given country since he would be one of the few members who would have carefully examined the whole report and the relevant background material. The intent of the proposals was certainly not to restrict the right of any individual member to state his views, although the avoidance of unnecessarily long and repetitive statements was desirable. During the last session she had noted how long it had taken members to make their statements and how many questions were repeated. It would indeed be useful for members to see the results of her findings. If the Committee did not wish to adopt the new working methods there and then, it could try some of them out during the next session with a view to their subsequent adoption. What was important, however, was that the proposals had triggered off such an interesting discussion.

61. Mr. TEXIER said that subparagraphs (a), (b) and (c) expressed very good intentions but were ambiguously worded. Contrary to some of the views expressed, the subparagraphs did not seek to impose restrictions on the freedom to speak on a particular subject or to grant excessive authority to Country Rapporteurs; in fact, they aimed to improve the effectiveness of the Committee's working methods. The problems arising could be dealt with in order of priority. In amending the wording of the subparagraphs, reference should be made to informal groups open to all Committee members. If a member was an expert on a particular subject, that did not preclude his expressing an opinion on other matters. Attempts should also be made to organize the Committee's work in advance. In accordance with previous practice, prior agreement might be reached to the effect that certain members would ask questions on particular articles of the Covenant.

62. Mr. HUNT pointed out that details of the current methods of work were contained in paragraphs 92 and 93 of document E/C.12/1999/CRP.1. Those paragraphs covered some of the concerns raised. He requested clarification regarding the previous practice to which Mr. Texier had referred.

63. Mr. SADI said that the Committee appeared to be divided on the issues under discussion and not to be prepared to reach a final decision. If the pre-sessional working group had sufficient time, it could reflect on the Committee's precise methods of work.

64. The CHAIRPERSON said that subparagraphs (a), (b), (c) and (d) could be held in abeyance. She would prepare a new draft of those subparagraphs for the next session so as to avoid that task being imposed on the pre-sessional working group. The system previously used could be tried out again with a view to its adoption as a regular method of work.

65. Mr. KOUZNETSOV said that the potential of the pre-sessional working group had not been fully exploited. A formal decision could be taken on paragraph 20 (e) so as to provide the Chairperson with a legal basis for reminding Committee members to be brief and concise in the formulation of their questions.

66. The CHAIRPERSON suggested that a decision on paragraph 20 (a), (b), (c) and (d) should be deferred.

67. It was so decided.

68. The text of paragraph 20 (e) and (f) was adopted.

69. Mr. HUNT said that efforts should be made to ensure that States parties were well aware of the procedural details contained in paragraph 20 (g). It was not sufficient for these details to be contained only in the Committee's report.

70. Mr. GRISSA said that, when submitting their initial reports, countries should be allowed to make a general presentation of their respective situations. During the consideration of the second and third periodic reports, however, the issues raised should be limited to articles 6 to 13, which constituted the essence of the Covenant.

71. Mr. TIKHONOV (Secretary of the Committee) recalled that when the procedure of submitting a written list of issues to States parties had been adopted, the Committee had instructed the secretariat to append to it chapter III and the relevant parts of chapter VI of its report, relating to the procedures for the consideration of reports submitted by States parties.

72. Mr. AHMED observed that States parties should be allowed more than the suggested 15 to 20 minutes for making their introductory statements.

73. The CHAIRPERSON stressed that the introductory statement should not contain information on specific articles of the Covenant. It should present the main problems faced by a particular State party, which would subsequently be considered in detail.

74. Mrs. JIMÉNEZ BUTRAGUEÑO considered that Mr. Grissa's idea of restricting the Committee's questions to articles 6 to 13 of the Covenant for second and third periodic reports was not practicable. Article 3 of the Covenant was equally important and should be included in such discussions.

75. Mr. ANTANOVICH felt that a limit of 20 minutes for States parties' introductory statements was entirely appropriate.

76. Mr. KOUZNETSOV said that the 20 minute limit could, at the request of a delegation or the Committee, easily be extended.

77. Mrs. JIMÉNEZ BUTRAGUEÑO considered that a period of 20 minutes was sufficient and that Committee members should try to ask specific questions after the introductory statement had been made.

78. The CHAIRPERSON proposed that, in the light of the discussion, paragraph 20 (g) should be adopted.

79. It was so decided.

80. Mr. TEXIER pointed out that the French version of paragraphs 21 and 22 differed from the English version. The two texts should be aligned.

81. The CHAIRPERSON said she took it that the Committee wished to adopt paragraph 21 on that understanding.

82. It was so decided.

83. Mr. SADI, referring to paragraph 22, said that the main purpose of the Committee's dialogue was to conduct an in-depth examination of State party reports, rather than simply to bring its work to a conclusion. That being so, two annual sessions were hardly sufficient and three would be more appropriate.

84. The CHAIRPERSON suggested that final consideration of paragraph 22 could be deferred, on the understanding that Committee members agreed among themselves to be more efficient in their work.

85. It was so decided.

86. Mr. TEXIER said that the question of holding two rather than three meetings, (the Committee's current practice), was closely linked to its decision to defer consideration of paragraph 20 (a)-(d). Two meetings would be sufficient provided that the Committee identified its priorities and took a constantly disciplined approach to its work. In that light, it would perhaps be better to delete paragraph 22.

87. The CHAIRPERSON said that a further attempt could be made to persuade the Economic and Social Council to allow the Committee to hold a third session so that it could address the backlog of reports for consideration. The Committee's methods of work should be streamlined so as to achieve a good balance between speed and quality of debate. A plan of action had been laid down and the Committee's desire for its successful application could be made clear in a statement which would also mention the secretariat's tireless efforts to assist the Committee in achieving its aims. That statement could be inserted in the section relating to support for the Committee.

88. Mr. SADI said that, if the Committee were to hold a third session, the States parties whose reports were to be considered should be informed in good time.

89. The CHAIRPERSON assured Mr. Sadi that the necessary steps would be taken to that end.

90. Chapter VI, as amended, was adopted.

91. The Committee's draft report (E/C.12/1999/CRP.1 and Add.1), as amended, was adopted.

CLOSURE OF THE SESSION

92. Following an exchange of courtesies, the CHAIRPERSON declared the session closed.

The meeting rose at 12.55 p.m.